

COMPLAINT

(for non-prisoner filers without lawyers)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

2019 MAY 15 A 10:13

STEPHEN C. DRIES
CLERK

(Full name of plaintiff(s))

Rev. James E. Connell

v.

(Full name of defendant(s))

State of Wisconsin, et al.

(see enclosed list)

Case Number:

19-cv-0728

(to be supplied by Clerk of Court)

A. PARTIES

1. Plaintiff is a citizen of Wisconsin and resides at
(State)

2462 N. Prospect Avenue, #204, Milwaukee, WI 53211

(Address)

(If more than one plaintiff is filing, use another piece of paper.)

2. Defendant State of Wisconsin, et al.

(Name)

C. JURISDICTION

☒ I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR

☐ I am suing under state law. The state citizenship of the plaintiff(s) is (are) different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$_____.

D. RELIEF WANTED

Describe what you want the Court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or to stop doing something.

[Please see enclosed one-page Statement of Relief Wanted.]

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.

E. JURY DEMAND

I want a jury to hear my case.

☐ - YES

☒ - NO

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 14th day of May 20 19.

Respectfully Submitted,

Rev. James E. Connell

Signature of Plaintiff

414-940-8054

Plaintiff's Telephone Number

connell.jim951@gmail.com

Plaintiff's Email Address

2462 N. Prospect Avenue #204

Milwaukee, WI 53211

(Mailing Address of Plaintiff)

(If more than one plaintiff, use another piece of paper.)

REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FILING FEE

- ☐ I **DO** request that I be allowed to file this complaint without paying the filing fee. I have completed a Request to Proceed in District Court without Prepaying the Filing Fee form and have attached it to the complaint.
- ☒ I **DO NOT** request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.

Defendants:

1. State of Wisconsin
2. State of Arizona
3. State of Arkansas
4. State of California
5. State of Delaware
6. State of Georgia
7. State of Maryland
8. State of Michigan
9. Commonwealth of Pennsylvania
10. State of Vermont

Defendants:

1. State of Wisconsin
Attorney General Josh Kaul
P.O. Box 7857
Madison, WI 53707-7857
2. State of Arizona
Attorney General Mark Brnovich
2005 North Central Avenue
Phoenix, AZ 85004-4085
3. State of Arkansas
Attorney General Leslie Carol Rutledge
323 Center Street, Suite 200
Little Rock, AR 72201
4. State of California
Attorney General Xavier Becerra
1300 "I" Street
Sacramento, CA 95814-2919
5. State of Delaware
Attorney General Kathy Jennings
Carvel State Building
820 North French Street
Wilmington, DE 19801
6. State of Georgia
Attorney General Chris Carr
40 Capitol Square, SW
Atlanta, GA 30334

7. State of Maryland
Attorney General Brian E. Frosh
200 St. Paul Place
Baltimore, MD 21202
8. State of Michigan
Attorney General Dana Nessel
525 W. Ottawa Street
P.O. Box 30212
Lansing, MI 48909
9. Commonwealth of Pennsylvania
Attorney General Josh Shapiro
Strawberry Square
Harrisburg, PA 17120
10. State of Vermont
Attorney General T.J. Donovan
109 State Street
Montpelier, VT 05609

Statement of Claim:

Constitutional Challenge to a Statute in each of the ten (10) States that are Defendants in this Complaint

Scope of this Complaint: the constitutionality of the use of a clergy-penitent privilege within State mandatory reporting of child abuse or neglect laws and related Rules of Evidence laws. Thus, this Complaint does not challenge any other use of a clergy-penitent privilege.

First. The Supreme Court of the United States has established that the Due Process Clause of the Fifth Amendment to the U.S. Constitution embodies a system of rights based on moral principles so deeply embedded in the traditions and feelings of our people as to be deemed fundamental to a civilized society as conceived by our whole history. [*Solesbee v. Balcom*, 339 U.S. 9 (1950)]

Second. I contend that protecting children from abuse or neglect is a compelling governmental interest based on moral principles so deeply embedded in the traditions and feelings of our people as to be deemed a fundamental right in an effort to assure that children are not deprived of life, liberty, or property, a right that is protected by the (substantive) Due Process Clause of the Fifth Amendment.

Third. Moreover, each of the ten (10) States that are Defendants in this Complaint, as well as other (all?) States that are not Defendants, have enacted in their respective State a statute that requires certain persons to report to civil authorities any information these persons acquire regarding abuse or neglect of a child. These persons are referred to as mandatory reporters. And I say that these mandatory reporting laws demonstrate that protecting children from abuse or neglect is a compelling governmental interest to each of these States. Furthermore, among the mandatory reporters in each of the ten (10) Defendant States are members of the clergy, and this is good.

Fourth. However, within each of the ten (10) State statutes in question there also is a clergy-penitent privilege that restricts or prohibits members of the clergy from reporting to civil authorities information about child abuse or neglect if the clergy person acquired the information in a confession or some other confidential setting.

Consequently, the use of clergy-penitent privilege laws within these mandatory reporting laws halts the revelation of truth. Yet, without the whole and complete truth the route to justice becomes difficult or even impossible to travel, with the result that healing for victims who suffer trauma as a result of child abuse or neglect becomes difficult or even impossible to experience.

Fifth. Not only is this use of a clergy-penitent privilege not good for the society, I contend that this use of a clergy-penitent privilege violates the (substantive) Due Process Clause of the Fifth Amendment and, hence, is unconstitutional. Children's right to not be deprived of life, liberty, or property, without the (substantive) Due Process of the Fifth Amendment is violated, while culprits who abuse or neglect children remain unimpeded.

Sixth. This issue that I am raising is not a matter of tort law because society should not wait for a child to be harmed by abuse or neglect before the society acts to protect all children.

Seventh. Some people might say that the presence of a clergy-penitent privilege within a State mandatory reporting of child abuse or neglect law protects people's freedom of religion right that is protected by the Free Exercise Clause of the First Amendment. I disagree. Rather, I contend that no institution in our society, not even a recognized religion, has a significant advantage over governments' compelling interest and responsibility to protect its children from harm by abuse or neglect. Indeed, the need to protect children from abuse or neglect, so as to protect the children's right to not be deprived of life, liberty, or property, without the (substantive) Due Process of the Fifth Amendment, is a compelling governmental interest pursued by the least restrictive means. Consequently, governments should be allowed or even required to intervene such that, while perhaps frustrating the free exercise of religion for some people, the greater good of protecting children from abuse or neglect would be enhanced for the common good of all people. To protect culprits while putting children at risk is wrong.

[See enclosed list of clergy-penitent privilege statutes within state mandatory reporting laws.]

Relief Wanted

A Federal Court Judgment establishing that the use of a clergy-penitent privilege within State mandatory reporting of child abuse or neglect laws, along with related Rules of Evidence laws, such that information about child abuse or neglect provided to a member of the clergy in a confession or in some other confidential setting may not be reported to civil authorities, violates the right of children to life, liberty, or property without (substantive) due process as provided for in the Fifth Amendment to the U.S. Constitution and, therefore, is unconstitutional.

The implementation of this judgment in each defendant State (and other nondefendant States as well) will require legislative and administrative effort and cost that in total would exceed \$75,000.00.